



DECISION NOTICE
for Mitigation Plan for MT Highway 83 Right-of-Way Conveyance on the
Blackfoot-Clearwater Wildlife Management Area

Montana Fish, Wildlife & Parks
Region 2
3201 Spurgin Road, Missoula MT 59804
(406) 542-5500

DESCRIPTION OF PROPOSED PROJECT

Montana Fish, Wildlife, and Parks (FWP) proposes to exchange up to 19 acres on the Blackfoot-Clearwater Wildlife Management Area (BCWMA) along the corridor of Montana Highway 83 to Montana Department of Transportation (MDT) for a 53-acre parcel that is adjacent to BCWMA's western boundary. This exchange is necessary for MDT's project to widen and realign the right-of-way for Highway 83 between Clearwater Junction and the town of Seeley Lake. If implemented, this action would be in lieu of monetary payment from MDT to FWP for right-of-way acquisition across the WMA for MDT's Clearwater Junction-North project.

ALTERNATIVES TO THE PROPOSED PROJECT

1. No Action--If the No Action alternative were approved, no property exchange would occur between FWP and MDT. In the near term there would be no disturbances to BCWMA. MDT may redesign their plans for the highway corridor's improvement or they may invoke their power of condemnation for matters of ensuring public safety. If the right of condemnation were implemented, FWP would only have the option of receiving monetary compensation for the needed right-of-way on the Blackfoot-Clearwater WMA, instead of receiving replacement land that serves a similar function or value. The amount of compensation would be negotiated, based on the appraised value of 19 acres. The 53-acre parcel would likely sell on the open market and be developed for residential use. This would impede wildlife movement to and from the WMA, convert valuable ungulate winter range, and create anthropogenic attractants that would threaten the area's bears and other wildlife.
2. Other Alternatives Considered but Eliminated from Further Analysis--During 2002, FWP and MDT considered the construction of wildlife overpass as a way to mitigate the impacts to BCWMA for the highway corridor improvements. As with the current

proposal by MDT, the improvements were necessary to decrease the wildlife-vehicle collisions between mile markers 4.1 and 4.5 and to improve public safety in this section of Highway 83. At that time, the cost of the overpass was estimated at \$1.6 million and the proposed mitigation plan was agreeable to both parties. Since that initial agreement, overpass construction costs have increased to a projected \$6-8 million, which has now made the overpass mitigation option too expensive and unfeasible.

PUBLIC PROCESS AND COMMENTS

FWP is required by the Montana Environmental Policy Act (MEPA) to assess potential impacts of a proposed action to the human and physical environment. In compliance with MEPA, a Draft Environmental Assessment (EA) was completed for the proposed project by FWP and released for public comment on November 4, 2009.

Public comments on the proposed action were taken for 16 days (through 5 p.m. on November 19, 2009). Legal notices were printed twice each in the *Helena Independent Record*, *Missoulian*, and *Seeley-Swan Pathfinder* newspapers. The EA was also posted on the FWP webpage <http://fwp.mt.gov/publicnotices/> beginning October 4. A public meeting was held on November 9, 2009 at the Seeley Lake Ranger Station as an opportunity for interested parties to learn about and ask questions about the project. Copies of the EA or postcard notification of its availability were mailed to interested parties and adjacent landowners.

Below is a summary of the comments and questions received and FWP responses to the feedback:

Three people attended the public meeting. Dwight Jenkins attended as both the editor of the *Pathfinder* and as a concerned resident. He personally expressed strong support for the project as proposed. Craig and Lynette Ronzone also attended. The Ronzones own a home very near to the proposed project area and support the exchange. They had additional specific concerns about the ultimate design and engineering of the Highway 83 right-of-way but understood that these issues were unrelated to and beyond the scope of this proposal. FWP referred them to the appropriate contact within MDT.

FWP also received four written comment letters. Missoula County Rural Initiatives submitted a letter fully supporting the proposal, as did Mr. B. Otis of Emigrant, MT. The Ronzones also submitted a letter supporting the proposed land exchange, but again raised concerns about MDT's engineering plans and highway access points north of the project area. Finally, Stephan and Martha Wolfinger, landowners very near the project area, submitted a letter that did not address the proposed project but rather expressed concerns about MDT's plans for considering highway access north of the project area and the effect that may have on a proposed private bridge across the Clearwater.

FWP response: FWP recognizes the Ronzone's and the Wolfinger's specific concerns with MDT's future decision/ability to grant or preclude additional highway access along the existing Riverwatch Subdivision. However, that issue is beyond the scope of, and unaffected

by, this current proposal. All other comments received were supportive of this land exchange project as proposed.

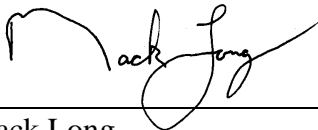
DECISION

Based on the Environmental Assessment (EA) and the applicable laws, regulations and policies, I have determined that this action will not have a significant effect on the human and physical environments associated with this project. Therefore, I conclude that the Environmental Assessment is the appropriate level of analysis, and that an Environmental Impact Statement is not required. By notification of this Decision Notice, the Draft EA is hereby made the Final EA with the FWP responses in this DN.

If selected, the No-Action alternative would not prevent the MDT road-widening and realignment project from occurring in the future. Under the No-Action alternative, the MDT project would likely result in a loss of wildlife habitat in the amount of up to 19 acres, as under the proposed project, but with no assurance that any appropriate property would be available in the future to replace that loss. Conversely, the proposed project would secure replacement habitat now, and in so doing would avoid the additional likely impact of residential development on that replacement habitat (i.e., the loss of 53 acres in addition to the 19 acres) in the coming months or years.

The 53-acre replacement parcel that FWP would acquire as a result of this proposal is nearly ideal for the purpose of mitigating the minor effects of right-of-way conveyance to MDT. The replacement parcel is located close by the 19 acres, and is used by the same wildlife species and individual animals. Its habitat and relative size offer natural foraging and resting areas for a diversity of species. Its juxtaposition on the landscape opens a broader landscape to the continued movement and migration of wildlife. The prevention of development on this parcel would contribute to the safe passage of a majority of individual animals across the highway by avoiding human influences that might tend to spook animals across the road or artificially confine or attract them in ways that increase collisions with vehicles. In addition, FWP's acquisition of these 53 acres would add exceptionally valuable habitat to the BCWMA—in the form of 1,800 feet of Clearwater River frontage.

In consideration of these facts, I am pleased to recommend that the Fish, Wildlife and Parks Commission approve the proposed exchange of lands between FWP and MDT.



Mack Long
Region 2 Supervisor
Montana Fish, Wildlife & Parks

November 23, 2009
Date